

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Gregory Richardson,

Case No.: 2:24-cv-01297-APG-NJK

Petitioner

Order

V.

Bean, et al.,

Respondents.

8 On August 8, 2024, the court granted Gregory Richardson's request to appoint counsel and
9 appointed the Federal Public Defender to represent the petitioner. ECF No. 4. On September 9,
10 2024, Kimberly Sandberg of the Federal Public Defender's Office appeared on behalf of the
11 petitioner. ECF No. 8.

12 I THEREFORE ORDER that counsel for the petitioner meet with the petitioner as soon as
13 reasonably possible to: (a) review the procedures applicable in cases under 28 U.S.C. § 2254; (b)
14 discuss and explore with the petitioner, as fully as possible, the potential grounds for habeas corpus
15 relief in the petitioner's case; and (c) advise the petitioner that all possible grounds for habeas
16 corpus relief must be raised at this time and that the failure to do so will likely result in the omitted
17 grounds being barred from future review under the rules regarding abuse of writ.

18 I FURTHER ORDER that counsel for the petitioner file an amended petition for writ of
19 habeas corpus within **90 days**, which includes all known grounds for relief (both exhausted and
20 unexhausted).

21 I FURTHER ORDER that the respondents file a response to the petition within **60 days**
22 of service of the petition. The petitioner will then have **45 days** from service of the answer,

1 motion to dismiss, or other response to file a reply or opposition. Any other motions will be
2 subject to the normal briefing schedule under the local rules.

3 Any response to the petition must comport with Habeas Rule 5. Additionally:

- 4 1. Any procedural defenses raised by the respondents in this case must be raised together in
5 a single, consolidated motion to dismiss. In other words, the court does not wish to
6 address any procedural defenses raised herein either in seriatum fashion in multiple
7 successive motions to dismiss or embedded in the answer. Procedural defenses omitted
8 from the motion to dismiss will be subject to potential waiver.
- 9 2. The respondents must not file a response in this case that consolidates their procedural
10 defenses, if any, with their response on the merits, except under 28 U.S.C.
11 § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If the respondents do
12 seek dismissal of unexhausted claims under § 2254(b)(2): (a) they must do so within the
13 single motion to dismiss, not in the answer, and (b) they must specifically direct their
14 argument to the standard for dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*,
15 406 F.3d 614, 623–24 (9th Cir. 2005). In short, no procedural defenses, including
16 exhaustion, should be included with the merits in an answer. All procedural defenses,
17 including exhaustion, must instead be raised by motion to dismiss.
- 18 3. In any answer filed on the merits, the respondents must specifically cite to and address the
19 applicable state-court written decision and state-court record materials, if any, regarding
20 each claim within the response as to that claim; and
- 21 4. The respondents must file a set of state court exhibits relevant to the response filed to the
22 petition. Those exhibits must be filed chronologically and be accompanied by a separate
23 index of exhibits identifying the exhibits by number. The CM/ECF attachments that are

1 filed must be identified by the number of the exhibit in the attachment. Each exhibit must
2 be filed as a separate attachment. The purpose of this provision is to allow the court and
3 any reviewing court thereafter to quickly determine from the face of the electronic docket
4 sheet which numbered exhibits are filed in which attachments. The respondents must
5 send a hard copy of all pleadings and indices of exhibits **ONLY** filed for this case to the
6 Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, directed to the attention of "Staff
7 Attorney" on the outside of the mailing address label.

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9 DATED this 10th day of September, 2024.

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12 ANDREW P. GORDON
13 UNITED STATES DISTRICT JUDGE